IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 8TH FEBRUARY 2007 / 19TH MAGHA 1928

LA.App..No. 1273 of 2005()

LAR.53/2001 of PRL.SUB COURT, KOZHIKODE
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APPELLANT:

STATE OF KERALA, REPRESENTED BY
SPECIAL TAHSILDAR, L.A., KOZHIKODE.

BY GOVERNMENT PLEADER SMT.K.R.DEEPA.

RESPONDENTS:
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1. KARTHIAYANI, PANARUKANDIYIL,
KARUVISSERI P.O.

2. JYOTHI KUMARAN, PANARUKANDIYIL,
KARUVISSERI P.O.

3. PEETHAMBARAN, PANARUKANDIYIL,
KARUVISSERI P.O.

4. VASUDEVAN, PANARUKANDIYIL,
KARUVISSERI P.O.

5. SANTHA, PANARUKANDIYIL,
KARUVISSERI P.O.

6. ASHOKAN, PANARUKANDIYIL,
KARUVISSERI P.O.

7. SOMASUNDARAN, PANARUKANDIYIL,
KARUVISSERI P.O.

8. RADHA, PANARUKANDIYIL,
KARUVISSERI P.O.

9. CHITHAMBARAM, PANARUKANDIYIL,
KARUVISSERI P.O.

10. THE SECRETARY,
CALICUT CORPORATION.

BY ADV. SMT.T.RESMI DAMODARAN

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 08/02/2007, ALONG WITH LAA 1361/05 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & K.T.SANKARAN, JJ.

L.A.A.Nos.1273 and 1361 of 2005

Dated 8th February, 2007.

J U D G M E N T

Kurian Joseph, J.

All these appeals pertain to the acquisition of land for the construction of parallel road to Canoli canal at Kozhikode. It is the case of the claimants that the acquired properties are situated in a very important locality, within 5 kms. from the Kozhikode city, in close vicinity to the educational institutions, panchayat bazar, village office and scheduled banks. On the basis of Ext.C1 commission report, the reference court found that the basis document relied on by the Land Acquisition Officer and the acquired properties are not similarly situated. The basis document does not have direct road frontage whereas the acquired properties have road frontage. It was also found that the contention regarding vicinity to the Kozhikode city, as contended by the claimants was correct. Important institutions are also noted to be situated within 200 meters of the property. The West Hill Bazar is only 500 meters away from the acquired land. One document produced is Ext.A1 having a measurement of 41.46 cents and the consideration is Rs.26 lakhs. The

document is executed in the year 1995. The said property is only 200 meters away from the acquired property. However, on the evidence tendered by AW1, the reference court found that the bye-pass is abutting the land covered by Ext.A1 and on that basis, taking note of the additional advantages to Ext.A1 property, 30% value was deducted from that of Ext.A1 and the reference was answered by fixing the value at the rate of Rs.43,890/- per cent. The claim for kuzhikoores was rejected for want of evidence. It is to be noted that the appellants did not have any evidence before the reference court to upset the evidence adduced by the claimants. In the above circumstances, we find that the fixation made by the reference court is just, proper and reasonable. The appeals are dismissed.

KURIAN JOSEPH, JUDGE.

K.T.SANKARAN, JUDGE.

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KURIAN JOSEPH & K.T.SANKARAN, JJ

L.A.A. NO. OF 2004

J U D G M E N T

Dated 8th February, 2007.